



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JLP:ddj

Docket No: 3375-00

15 August 2000

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CNO memorandum 5420 SER N133D/000314 of 21 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

5420

Ser N133D/ 000314

JUN 21 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
[REDACTED]

Ref: (a) SECNAVINST 7220.80E

Encl: Docket Number 03375-00

1. Forwarded, recommending disapproval.
2. On 06 September 1999 then Chief [REDACTED] reached his Pay Entry Base Date (PEBD) plus 22 year point. Per reference (a), entitlement to CONSUBPAY stops at this point for any enlisted submarine Sailor who did not have at least 120 months of Total Operational Submarine Service (TOSS) upon reaching his 18 year submarine career screening gate (18YRGT). Chief [REDACTED] 18YRGT was 05 October 1996, based on his Submarine Service Entry Date (SSED) of 05 October 1978. He did not obtain 120 months of TOSS until 16 October 1996. A thorough review of his career history indicates that he did not have sufficient TOSS for continued entitlement to CONSUBPAY. Reference (a) explicitly disallows waivers for insufficient TOSS. This was the reason for his loss of entitlement to CONSUBPAY, not High Year Tenure (HYT).
3. On 13 September 1999 Chief [REDACTED] transferred from a submarine assignment to a non-submarine assignment with a PRD of 0208. If he had not missed his 18YRGT, his CONSUBPAY would have stopped on this date, since HYT prevented him from obtaining sufficient OBLISERV for CONSUBPAY and he had previously been denied a HYT waiver, as mentioned in his application to the BCNR.
4. Also per reference (a), Senior Chief [REDACTED] was entitled to OPSUBPAY from 07 September 1999 until his transfer from his submarine assignment on 13 September 1999. Input has been made to DFAS-Cleveland to credit this money to Senior Chief Brown's pay account.

D. S. RATTE
Submarine Pay
Program Manager